IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8654 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ARUNBHAI KANJIBHAI BHIL

Versus

STATE OF GUJARAT

Appearance:

MS KD PARMAR for Petitioner

Ms.Harsha Devani, learned A.G.P. for respondents

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 13/10/2000

ORAL JUDGEMENT

This Special Civil Application is directed against the detention order dated 19.5.2000 passed by the Police Commissioner, Rajkot City whereby the petitioner was detained under the provisions of Gujarat Prevention of Anti Social Activities Act, 1985. The petitioner is detained at Special Jail, Porbandar since 19.5.2000.

No reply to the petition has been filed.

The grounds of detention enclosed with the detention order show that 4 criminal cases under the Bombay Prohibition Act were registered against the petitioner on 31.10.99, 30.12.99, 20.2.2000 and 12.4.2000 respectively at 'A' Division Police Station, Rajkot. Out of these 4 cases, 3 cases are pending trial and in the last case, the case, which was registered on 12.4.2000, the investigation was pending at the time when the detention order was passed. The detaining authority has mentioned about the petitioner's bootlegging activities and on the basis of the 4 cases, as aforesaid, under Bombay Prohibition Act, the petitioner has been found to be a bootlegger and the detaining authority has also mentioned that petitioner's activities are injurious to public health. On the basis of the 4 criminal cases, as aforesaid, and the bald mention, which has been made by the detaining authority that petitioner's activities are injurious to public health, it cannot be said that it is a case of breach of public order. In absence of any cogent and credible material, even with reference to Kanuji S.Zala's case, reported in 1999 (2) GLH 415, it cannot be said that petitioner's activities have become a threat to the public order. The petitioner's activities, as mentioned in the grounds of detention, may at the most constitute a case of breach of law and order and not a case of breach of public order.

For the reasons, as aforesaid, the impugned detention order dated 19.5.2000 passed by the Police Commissioner, Rajkot City cannot be sustained in the eye of law and the same is hereby quashed and set aside. The respondents are directed to release the petitioner Arunbhai Kanjibhai Bhil forthwith from the Special Jail, Porbandar where he is detained since 19.5.2000, in case he is not required to be detained in any other matter. This Special Civil Application is allowed. Rule is made absolute.

(M.R.Calla,J)